

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Oct 27, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOEL GARCIA,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

No. 4:21-cv-05089-SMJ

ORDER DISMISSING ACTION

Before the Court is Petitioner Noel Garcia's First Amended Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241. ECF No. 9. Petitioner, a pretrial detainee at the Franklin County Jail, is proceeding *pro se* and *in forma pauperis*. Respondent has not been served.

Liberally construing the First Amended Petition in the light most favorable to Mr. Garcia, the Court finds that he has failed to cure the deficiencies of the initial petition. Specifically, the Court instructed Petitioner to name his current custodian as the proper respondent to this action. ECF No. 8 at 2; *see, e.g., Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 893 (9th Cir. 1996). Petitioner did not follow this instruction and he did not demonstrate that he fully exhausted each of the claims presented to this Court for habeas review. *See, e.g., Braden v. 30th Jud. Cir. Ct.*, 410 U.S. 484,

1 489–92 (1973); *Carden v. Montana*, 626 F.2d 82, 83 (9th Cir. 1980). To the extent
2 Petitioner’s state criminal proceedings are still pending, the Court finds it proper to
3 abstain from intervening in those proceedings. *Younger v. Harris*, 401 U.S. 37
4 (1971).

5 Therefore, for the reasons set forth above and in the previous Order, ECF No.
6 8, the Court dismisses this action without prejudice for lack of personal jurisdiction.
7 *See Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994).

8 Accordingly, **IT IS HEREBY ORDERED:**

- 9 **1.** This action is **DISMISSED WITHOUT PREJUDICE** for lack of
10 personal jurisdiction.
- 11 **2.** All pending motions are denied as moot.
- 12 **3.** The Clerk’s Office is directed to **ENTER JUDGMENT** and **CLOSE** this
13 file.
- 14 **4.** The Court certifies that an appeal from this decision could not be taken in
15 good faith and there is no basis upon which to issue a Certificate of
16 Appealability. *See* 28 U.S.C. §§ 1915(a)(3), 2253(c); Fed. R. App. P.
17 22(b).

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